

**IN THE DRAWINGS:**

Applicant proposes to amend the drawings to make the following changes to Figs. 1-3, 5, 6, and 8, as marked in red on that attached copies of these drawing figures:

Fig. 1, change reference numeral "40" with a lead line directed to the securing aperture on the cover plate 10 to reference numeral -- 36 --;

Fig. 1, add reference numeral "28" with a lead line directed to the front surface of the cover plate 10;

Fig. 2, add reference numeral "28" with a lead line directed to the front surface of the cover plate 10;

Fig. 2, add reference numeral "30" with a lead line directed to the back surface of the cover plate 10;

Fig. 2, add reference numeral "46" with a lead line directed to the elevated wall between the mounting screw apertures 36 and the socket receiving areas 44 on the cover plate 10;

Fig. 3, change reference numeral "36" with a lead line to the securing aperture on the receptacle 12 to reference numeral -- 40 --;

Fig. 3, change reference numeral "40" with a lead line to the securing aperture on the cover plate 10 to reference numeral -- 36 --;

Fig. 5, change reference numeral "132" with a lead line to the discontinuity on the front surface 128 of the cover plate 100 to reference numeral -- 154 --;

Fig. 5, change reference numeral "134" with a lead line to the blade apertures on the cover plate 100 to reference numeral -- 132 --;

Fig. 6, add reference numeral "250" with a lead line to the first region of the front surface 128 of the cover plate 200;

Fig. 6, add reference numeral "254" with a lead line to the discontinuity on the front surface 128 of the cover plate 200;

Fig. 8, change reference numeral "130" with a lead line to the rear surface of the cover plate 10 to reference numeral -- 30 --;

Fig. 8, add reference numeral "42" with a lead line to the protruding line on the front surface 28 of cover plate 10'.

### **REMARKS**

#### **Oath/Declaration**

A new Declaration executed by the named inventors accompanies this Amendment. The Declaration specifically references Application Serial No. 08/775,382 for which this application is a continuation in part.

#### **Specification and Abstract of the Disclosure**

Applicants have amended the specification and Abstract of the Disclosure to address points raised in the Office Action, and to improve their readability. Applicants submit that these amendments overcome the objections raised in the Office Action at page 2, Paragraphs 2 and 3.

### **Claim Objections**

Applicants have acknowledged and conceded to the renumbering of claims 32-46 to become claims 31-45, respectively.

Applicant has amended claim 28 as requested in the Office Action at page 3, Paragraph 5.

### **Claim Rejections – 35 U.S.C. § 112**

Applicants have amended claims 9, 10, 12-21, 23, 24, 30, 35, 36, 42, and 44 to address the points raised in the Office Action at Paragraph 7 (pages 3-5). Applicants submit that these amendments overcome the rejection under Section 112.

### **Rejection of Claims 22, 25, 28-34, 37, 38, and 40-45 Under 35 U.S.C. 102(a) Based on Hayman**

#### **Independent Claim 22**

Independent claim 22 is not anticipated by Hayman (U.S. Design Patent No. Des. 159,413) because Hayman fails to disclose a cover plate for covering an electrical outlet including a receptacle wherein the cover plate comprises a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface facing toward the electrical outlet; a plurality of blade apertures; and at least one securing aperture, wherein the front surface of the cover plate contains a first region substantially rectangular in shape disposed about and including all the blade apertures and the at least one securing aperture and a second region which contains the portion of the front surface other than the first region, wherein the front surface has a discontinuity between the first and second regions, and wherein the first region is otherwise continuous, having uniform topography, and being free of

any other apertures, and the second region is otherwise continuous, having uniform topography, and being free of any apertures, as recited in amended claim 22.

Hayman, for example, does not disclose a first region which is otherwise continuous, with uniform topography or a second region which is otherwise continuous, with uniform topography. The Hayman patent is a design patent which discloses a cover plate for electrical outlet receptacles. Figs. 1 through 4 of the Hayman patent show two large discontinuities, one at the top of the cover plate and one at the bottom of the cover plate, which are other than the blade apertures or the securing aperture. The Hayman patent further shows three ridges or lines which extend in a substantially rectangular manner around the blade apertures and the securing aperture. Applicant concludes that this is the discontinuity referred to in paragraph 8 of the Office Action. The two large discontinuities on the top and bottom of the Hayman cover plate are therefore included in what might be characterized as the recited first and the second regions of the Hayman cover plate. Therefore, the Hayman cover plate is not otherwise continuous in the first and second regions as recited in claim 22.

Amended claim 22 patentably distinguishes over Hayman, for example, in that Hayman fails to disclose or suggest a cover plate as recited in that claim. In fact, Hayman teaches away from the use of the recited cover plate, for example, in that it is a design patent which adds features which are expressly excluded in the cover plate of claim 22, i.e. the first region other than the recited features, is continuous, having uniform topography, and being free of any other apertures, and the second region

being otherwise continuous, having uniform topography, and being free of any apertures.

#### Independent Claims 25, 26, and 28-33

Dependent claims 25, 26, and 28-33 are not anticipated by, and patentably distinguish over, Hayman, for example, in that they depend from and more specifically recite the invention of claim 22. The reasons set forth above apply to these claims.

Additionally, claims 25 and 26 add the limitation that the first and second regions of the cover plate are substantially planar. The two large discontinuities at the top and the bottom of the Hayman cover plate obviously are not planar, and therefore anything that could be characterized as the first and second regions of the Hayman cover plate could not substantially planar.

Claim 31 adds the limitation that the first and second regions of the front surface are substantially smooth. Again, the two large discontinuities at the top and bottom of the Hayman cover plate disrupt the smooth nature of the surface of the first and second regions of the Hayman cover plate.

#### Independent Claim 34

Independent claim 34 is not anticipated by Hayman, for example, in that Hayman does not disclose a cover plate for covering an electrical outlet including a receptacle wherein the cover plate comprises a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface facing toward the electrical outlet and a plurality of blade apertures, wherein the front surface of the cover plate contains a first region substantially rectangular in shape

disposed about and including all the blade apertures and a second region which contains the portion of the front surface other than the first region, wherein the front surface has a discontinuity between the first and second regions, and wherein the first region is otherwise continuous, having uniform topography, and being free of any other apertures, and the second region is otherwise continuous, having uniform topography, and being free of any apertures, as recited in independent claim 34.

Hayman, for example, does not disclose a first region which is otherwise continuous, with uniform topography or a second region which is otherwise continuous, with uniform topography. The two large discontinuities on the top and bottom of the Hayman cover plate preclude it from having this feature. Therefore, the Hayman cover plate is not otherwise continuous in the first and second regions as recited in claim 34. As discussed above for claim 22, claim 34 patentably distinguishes over Hayman, and in fact Hayman teaches away from the recited cover plate, for example, in that Hayman is a design patent which adds the projections at its top and bottom for ornamental adornment, rather than excluding features as is recited in claim 34.

#### Dependent Claims 37, 38, and 40-44

Dependent claims 37, 38, and 40-44 are not anticipated by, and patentably distinguish over, Hayman, for example, in that they depend from and more specifically recite the invention of claim 34.

Additionally, claims 37 and 38 add the limitation that the first and second region of the cover plate are substantially planar. The two large discontinuities at the

top and the bottom of the Hayman cover plate are obviously not planar, and therefore anything that could be characterized as the first and second regions of the Hayman cover plate are not substantially planar.

Claim 43 adds the limitation that the first and second region of the front surface are substantially smooth. Again, the two large discontinuities at the top and bottom of the Hayman cover plate disrupt the smooth nature of the surface.

Independent Claim 45

Applicant has canceled claim 45 in the amendment provided above.

**Rejection of Claims 1, 3-6, 8-12, and 14-21**  
**Under 35 U.S.C. 103(a) based on Hayman**

Independent Claim 1

Independent claim 1 patentably distinguishes over Hayman, for example, in that Hayman fails to disclose or suggest a cover plate for covering an electrical outlet including a receptacle, wherein the cover plate comprises a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface facing toward the electrical outlet; a plurality of blade apertures; and at least one securing aperture extending through the cover plate, through the front and back surfaces, and positioned in the cover plate, wherein the at least one securing aperture is in substantial alignment with a corresponding one of the at least one securing aperture of the receptacle when the cover plate is affixed to the electrical outlet, the at least one securing aperture of the cover plate for receiving the securing device and fixedly positioning the cover plate with respect to the receptacle, the front surface of the cover plate contains a single line extending substantially in a rectangle

around the blade apertures and the at least one securing aperture, and the front surface is otherwise continuous, having uniform topography, and being free of any other apertures, as recited in independent claim 1.

Hayman, for example, does not disclose a front surface of the cover plate containing a single line extending substantially in a rectangle around the blade apertures and the at least one securing aperture, wherein the front surface is otherwise continuous, having uniform topography, and being free of any other apertures, as recited in independent claim 1. The Office Action acknowledges in paragraph 11 that the Hayman cover plate does not show a single line as disclosed in claim 1, but states that Hayman shows a plurality of lines and pronounced elevations. It continues on to suggest that it would have been obvious to one having ordinary skill in the art at the time of the invention to omit all but a single one of the lines. The Office Action references In re Karlson, 311 F.2d 581, 136 U.S.P.Q. (BNA) 184 (C.C.P.A. 1963), as support for this argument.

Applicants do not concede that In re Karlson is applicable to this case as set forth in the Office Action. In re Karlson does not overrule the legions of cases from the Court of Appeals for the Federal Circuit ("Federal Circuit") and its predecessor court that mandate the four-pronged Graham v. John Deere analysis for determining obviousness, nor those which hold that the claimed invention must be viewed as a whole. The obviousness determination in this case must be made by comparing the differences between each claim taken as a whole with the teaching of Hayman taken as a whole.



Figs. 1 through 4 of the Hayman patent show two large discontinuities on the front surface of the Hayman cover plate, one at the top of the cover plate and one at the bottom of the cover plate, which are other than the blade apertures or the securing aperture. Therefore, the front surface of the Hayman cover plate is not otherwise continuous as disclosed in claim 1.

Hayman teaches away from a cover plate with a front surface containing a single line extending substantially in a rectangle around the blade apertures and the at least one securing aperture. One cannot simply eliminate all of the lines but a single one from the Hayman invention and thereby obtain the invention as recited in claim 1, nor can one simply eliminate the large discontinuities at the top and bottom of the Hayman cover plate and obtain the invention as recited in claim 1. Multiple modifications to the Hayman cover plate would be required to obtain the invention as recited in claim 1.

There is no suggestion in Hayman to make these necessary modifications, and thus use of them impermissibly requires hindsight afforded by the invention. Hayman is a design patent, and provides no motivation for any such alterations.

#### Dependent Claims 3-6 and 8-11

Dependent claims 3-6 and 8-11 patentably distinguish over Hayman, for example, in that they depend from and more specifically recite the invention of claim 1. The arguments set forth above for claim 1 apply to them with equal force.

In addition, claims 4 and 5 add the limitation that the front surface of the cover plate is substantially planar. The two large discontinuities at the top and the bottom

of the Hayman cover plate are obviously not planar, and therefore the front surface of the Hayman cover plate is not substantially planar.

Claim 10 adds the limitation that the front surface of the cover plate other than the line is substantially smooth. Again, the two large discontinuities at the top and bottom of the Hayman cover plate disrupt the smooth nature of the front surface of the Hayman cover plate.

#### Independent Claim 12

Independent claim 12 patentably distinguishes over Hayman, for example, in that Hayman fails to disclose or suggest a cover plate for covering an electrical outlet including a receptacle wherein the cover plate comprises a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back<sup>?</sup> surface facing toward the electrical outlet, and a plurality of blade apertures, wherein the front surface of the cover plate contains a single line extending substantially in a rectangle around the blade apertures, and the front surface is otherwise continuous, having uniform topography, and being free of any other apertures, as recited in independent claim 12.

Hayman, for example, does not disclose a cover plate having a front surface which contains a single line extending substantially in a rectangle around the blade apertures, and wherein the front surface is otherwise continuous, having uniform topography, and being free of any other apertures, as recited in independent claim 12. The Office Action acknowledges in paragraph 11 that the Hayman cover plate does not show a single line as disclosed in claim 12, but states that Hayman shows a plurality

of lines, pronounced elevations and a securing aperture. The Office Action suggests that it would have been obvious to one having ordinary skill in the art at the time of the invention to omit all but a single one of the lines, again referencing In re Karlson as support for this argument.

As explained above with respect to claim 1, Applicants do not agree that In re Karlson is applicable to this case as set forth in the Office Action. Again, as stated previously for claim 1, the obviousness determination in this case must be made by comparing the differences between each claim taken as a whole with the teaching of Hayman taken as a whole. Figs. 1 through 4 of the Hayman patent show two large discontinuities, a securing aperture, and multiple lines on the front surface of the Hayman cover plate. Therefore, the front surface of the Hayman cover plate is not otherwise continuous as recited in claim 12.

Hayman teaches away from the invention of claim 12, for example, in that it is a design patent which adorns a cover plate with ornamental features at the top and bottom of the cover plate, i.e., it focuses on the addition of surface features.

As described previously for claim 1, significant and unobvious alterations would be required to the Hayman cover plate to obtain a cover plate of claim 12. Hayman provides no suggestion or motivation for any such alterations.

#### Dependent Claims 14-21

Dependent claims 14-21 patentably distinguish over Hayman, for example, in that they depend from and more specifically recite the invention of claim 12. The arguments supporting the patentability of claim 12 apply to them as well.

Additionally, claim 15 adds the limitation that a substantial portion of the front surface of the cover plate is substantially planar. The two large discontinuities at the top and the bottom of the Hayman cover plate obviously are not planar, and therefore the front surface of the Hayman cover plate is not substantially planar.

Claim 19 adds the limitation that the front surface other than the line is substantially smooth. Again, the two large discontinuities at the top and bottom of the Hayman cover plate disrupt the smooth nature of the front surface of the Hayman cover plate.

**Rejection of Claims 12, 13, 15-19, and 21**  
**Under 35 U.S.C. 103(a) Based on Dierenbach et al.**

**Independent Claim 12**

Independent claim 12 patentably distinguishes over Dierenbach et al., for example, in that Dierenbach et al. fails to disclose or suggest a cover plate for covering an electrical outlet including a receptacle, wherein the cover plate comprises a front surface for facing outwardly from the electrical outlet and externally relative to the cover plate and a back surface facing toward the electrical outlet, and a plurality of blade apertures, wherein the front surface of the cover plate contains a single line extending substantially in a rectangle around the blade apertures, and wherein the front surface is otherwise continuous, having uniform topography, and being free of any other apertures, as recited in independent claim 12.

Dierenbach et al., for example, fails to disclose or suggest a front surface of the cover plate which contains a single line extending substantially in a rectangle around the blade apertures and the at least one securing aperture, wherein the front surface

is otherwise continuous, having uniform topography, and being free of any other apertures, as recited in independent claim 12.

The Office Action suggests that the cover plate 136 of Dierenbach et al., combined with the wall plate 172 of Dierenbach et al., are equivalent to the cover plate recited in claim 12. The Office Action acknowledges in paragraph 12 that the Dierenbach et al. cover plate plus wall plate is not a single cover plate as recited in claim 12, but states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the cover plate and the wall plate of Dierenbach et al. integral to one another. The Office Action references Howard v. Detroit Stove Works, 150 U.S. 164 (1893) as support for this argument.

The Office Action makes no mention of the third element, yoke plate 110, disclosed in Dierenbach et al., which is required along with cover plate 136 and wall plate 172 to cover the electrical socket the Dierenbach et al. device. In fact, the simple incorporation of wall plate 172 into cover plate 136 of the Dierenbach et al. device would result in a cover plate which does not have the necessary features to mount to an electrical socket. The combination of these elements of Dierenbach et al. would not appear to be functional and, in fact would appear to result in a useless cover plate for covering electrical sockets of the variety described in Dierenbach et al. without significant further modification and experimentation.

The Office Action also suggests that the interface between these two elements of Dierenbach et al. results in a single line as recited in claim 12 when the elements are attached. The interface between these two elements when they are attached is an

interface seam, not a line. The interface seam will allow debris to be caught in the gap between the elements and potentially migrate into the outlet box as described in the first paragraph of page 4 of Applicants' specification.

Moreover, Deirenbach et al. provides no suggestion or motivation to create a single piece cover plate as recited in claim 12. Deirenbach et al. in fact teaches away from creating a single-component cover plate. Instead, Dierenbach et al. teaches of a three-piece wall box electrical device assembly which separates the decorative and safety functions of the socket covers (paragraph 3, lines 34-54).

#### Dependent Claims 13, 15-19 and 21

Dependent claims 13, 15-19 and 21 patentably distinguish over Dierenbach et al., for example, in that they depend from and more specifically recite the invention of claim 12. The arguments set forth above for the patentability of claim 12 apply to them as well.

#### Rejection of Claims 7, 27, and 39 Under 35 U.S.C. 103(a) Based on Hayman in View of Allen

Claims 7, 27, and 39 patentably distinguish over Hayman, for example, in that they depend from independent claims 1, 22, and 34, respectively. Claims 1, 22, and 34 have been shown to patentably distinguish over Hayman in paragraphs 11 and 9 respectively as provided above.

Claims 7, 27, and 39 add the limitation to claims 1, 22, and 34 respectively that the back surface includes at least one thinned receiving area sized to receive the at least one socket of the receptacle, wherein the at least one receiving area receives and mates to the at least one socket when the cover plate is affixed to the electrical outlet.

Allen discloses a paint guard for use as a protective paint shield over an electrical outlet having a pair of sockets. Allen adds nothing to Hayman which would affect the patentability analysis of independent claims 1, 22, and 34 as provided above. It does not disclose a cover plate, and provides no suggestion or motivation to provide a receiving area as a component of a cover plate. The suggested materials for use in these paint guards are elastomeric materials (column 1, lines 12-14). They are intended to be temporary guards, not permanent cover plates (column 1, line 20). {convinced}

Allen does not attempt to address issues associated with electrical cover plates, and Allen provides no suggestion or motivation for designing an electrical cover plate as recited.

Claims 7, 27, and 39 patentably distinguish over Hayman and Allen taken alone or in combination in that they depend from independent claims which patentably distinguish over Hayman in view of Allen, as explained above.

**Rejection of Claim 36 Under 35 U.S.C. 103(a)**  
**Based on Hayman in view of Warner**

Claim 36 patentably distinguishes over Hayman in that it depends upon independent claim 34. Claim 34 has been shown to patentably distinguish over Hayman as explained above. Claim 36 as amended above adds the limitation to claim 34 that the first region is recessed inwardly from the second region of the front surface of the cover plate.

Warner discloses a protective cover plate for electrical outlet receptacles. The protective cover plate includes two plug passageways 76 and 78, one for each socket (column 4, lines 3-10). Each passageway is has a cross-sectional area slightly greater

than the maximum cross-sectional area of the plugs to protect the plug blades from access by children when the plug is inserted in the socket (column 4, lines 20-25). The mounting aperture 18 is located in an area other than the passageways 76 and 78. The Warner cover plate also includes upper apertures 100 and lower apertures 102 which allow one to see indicators inside the apertures to determine if the protective cover is operative (column 5, lines 29-47). These apertures also reside on the front surface of the Warner cover plate in an area other than the passageways 76 and 78. Additionally, the Warner patent includes shutter mechanisms 60 and 62 which offset the blade apertures 88, 90, and 92 of the cover plate from the socket blade apertures 32, 34, and 36 so that plug blades 44, 46, and 48 cannot be inserted directly into the socket blade apertures (column 5, lines 5-28). Warner therefore does not disclose or suggest a cover plate as recited in independent claim 34, as amended above.

For example, Warner fails to disclose or suggest a cover plate wherein blade apertures are included in the cover plate in substantial alignment with the blade apertures of the socket when the cover plate is affixed to the outlet, or a first region disposed about and including all the blade apertures and a second region which contains the portion of the front surface other than the first region, wherein the first region is otherwise continuous, having uniform topography, and being free of any other apertures, and the second region is otherwise continuous, having uniform topography, and being free of any apertures. Warner adds nothing to Hayman which would affect the patentability analysis of independent claim 34 as provided above. Independent claim 34 thus patentably distinguishes over Hayman or Hayman in view



of Warner.

Claim 36 patentably distinguishes over Hayman and Warner, taken alone or in combination, in that it depends from independent claim 34, which patentably distinguishes over Hayman in view of Warner. Further, Claim 36 adds the limitation to the invention as recited in claim 34 that the first region is recessed inwardly from the second region. Warner does not disclose a first region as recited in claim 34 and further restricted in claim 36.

#### Claim 2

Applicant has shown that claim 1 patentably distinguishes over Hayman as described above, and that claim 2 is dependent on an allowable claim and is therefore in a state for allowance.

#### Claims 23, 24, and 25

Applicant has shown that claim 22 patentably distinguishes over Hayman as described above. Amended claims 23, 24, and 25 patentably distinguish over the Hayman, for example, in that these claims depend from and more specifically recite the invention as set forth in claim 22. The arguments for patentability of claim 22 as set forth above apply to them as well.

#### Notice Regarding the Drawings

Applicant acknowledges the Notice of Draftsperson's Patent Drawing Review. Applicant will make the requested corrections, but wishes to defer submitting formal drawings with these corrections until allowance of claims and payment of the issue fee.

## Conclusion

In conclusion, Applicants respectfully submit that claims 1-44 as pending in view of this Amendment patentably distinguish over the cited and applied references, and are in condition for allowance. Reconsideration of the application is requested in view of the remarks set forth above.

A Petition for a three-month extension of time and fee are being filed concurrently herewith. If any additional fees or amounts are due in connection with the filing of this paper or the prosecution of this application, please notify the undersigned so the fee can be promptly submitted.

Dated: February 12, 1999

Respectfully submitted,



Stephen T. Sullivan  
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Express Mail Label No. EL235902575US

Date of Deposit February 12, 1999

I hereby certify that this paper or fee is being deposited with the U.S. Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed Assistant Commissioner for Patents, Washington, D.C. 20231.

